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THE MINNEHAHA COUNTY COMMISSION CONVENEED AT 9:00 A.M. April 9, 2013 pursuant to adjournment on April 2, 2013. Commissioners present were: Barth, Beninga, Kelly, and Pekas. Commissioner Heiberger was absent. Also present were Cindy Jepsen, Commission Recorder, and Kersten Kappmeyer, Chief Civil Deputy State's Attorney.

Chairman Beninga called the meeting to order.

MOTION by Pekas, seconded by Barth, to approve the agenda. 4 ayes.

MOTION by Kelly, seconded by Barth, to approve the April 2, 2013 Commission Minutes. 4 ayes.

VOUCHERS TO BE PAID

MOTION by Barth, seconded by Pekas, to approve the following bills totaling \$760,777.98. 5 ayes.

A & B Business Equip	Var. Depts	893.67	A-Ox Welding Supp Co	Hwy Constr	193.47
Advance Auto Parts	Sheriff	28.99	Airway Service Inc	Em Mgmt	2,476.68
Alamo Rent-A-Car	Var. Depts	194.33	Alpha Graphics Inc	Hwy Admin	660.63
Amazon Mktplace Pmts	Var. Depts	523.13	Appeara / Dudley Lau	Hwy Constr	31.48
At & T	Sheriff	47.01	Avera Healthworks	Expenses	5,576.00
Avera Home Medical E	Human Svcs	169.43	Avera Mckennan Campu	Human Svcs	34.68
Avera Mckennan Hospi	Var. Depts	10,077.50	Barnes & Noble.Com	Human Res	125.69
Batteries Plus/Onesk	Var. Depts	41.59	Baumgartner Trees &	Mus Entpr	60.00
Belitz, Clarence H /	Human Svcs	270.00	Best Buy	Sheriff	36.99
Big D Oil Co	Var. Depts	22.26	Billion's	Hwy Admin	186.70
Black Inc	Mus Entpr	300.00	Bob Barker Company,	JDC	1,961.00
Bob's Lock & Key/Haw	JDC	3.10	Bodelin	Sheriff	812.71
Border States Electr	Facilities	4.45	Bourne, Anna	Mental Ill	330.00
Boyd, Michelle	Sheriff	189.00	Boyer Trucks Sioux F	Hwy Constr	323.27
Bp Products North Am	Var. Depts	190.06	Brown & Saenger	24/7 Prog	107.92
Budget Rent-A-Car	Var. Depts	240.77	Builders Supply Comp	Var. Depts	1,177.63
Buthe, Dj	Hwy Constr	30.00	Butler Machinery Com	Hwy Constr	79,445.00
Cabela S Retail Mitc	Hwy Constr	19.99	Campbell Supply Co I	Facilities	370.69
Casad Company	Human Res	80.00	Cellular Only - Dawl	Sheriff	91.40
Century Business Pro	Dir Of Eq	37.50	Centurylink (Qwest)	Jail	51.80
Chemco, Inc.	JDC	58.08	Clark	Jail	25.13
Climate Systems, Inc	Facilities	3,999.84	Code Micro, Inc.	Info Tech	50.70
Cody, Denise	Mental Ill	37.50	Cole's Petroleum Inc	Hwy Constr	3,352.40
Com-Tec Security, Ll	Jail	457.00	Comfort Inn	Sheriff	68.00
Constellation New En	Pettigrew	356.81	Cooley, Carla F	Courts	144.40
Cpc Corrections Prod	Facilities	1,277.77	Crosby-Jaeger Funera	Human Svcs	2,250.00
Crowne Plaza Mn N. H	Sheriff	121.00	Dakota Fluid Power,	Hwy Constr	383.21
Danko Emergency Equi	Bldg Fund	262.00	Davenport, Evans, Hurw	Human Res	690.00
Daves Automotive	Dir Of Eq	146.31	Decastro Law Office,	Courts	1,180.40
Delta Air	Sheriff	50.00	Dey Appliance	Facilities	17.43
Dockendorf Equipment	Facilities	270.84	Dollar General	JDC	49.00
Dollar Tree Stores I	Planning	1.59	Dressen Custom Trail	Em Mgmt	845.00
Dynamic Technical Bl	Bldg Fund	2,280.00	Eastern Farmers Coop	Var. Depts	116.84
Eaton Electrical, In	Em Mgmt	13,428.86	Ebert's Properties,	Human Svcs	210.00
Eirinberg, James A	Courts	1,492.40	Expedia	Human Svcs	803.65
Express Copy And Pri	Facilities	15.75	Fastenal Company	Facilities	155.01
First Dakota Nationa	Em Mgmt	2,686.25	Fleetpride / Holt, I	Hwy Constr	108.72
Floorplanner .Com Bv	Hwy Admin	14.95	Fred The Fixer Inc	Var. Depts	48.60
Front Range Training	Sheriff	0.00	G & H Repair	Hwy Constr	223.00
G And H Distributing	Facilities	11.46	Gamestop	Safe Home	189.97
Gas Stop #131	Hwy Constr	9.00	Geotek Engineering &	Hwy Admin	185.00
Goebel Printing, Inc	Var. Depts	3,708.99	Golden West	Hwy Admin	36.64
Good Samaritan Soc-L	Human Svcs	500.00	Graham Tire Co. - Do	Mus Entpr	25.00
Grainger, Inc.	Facilities	209.50	Graybar Electric	Facilities	405.90
Gromer, Jeff	Jail	161.00	Gunner, Andrea	Courts	448.50
Guzman, Sandra V.	Courts	75.00	Hackett, Jerri	Elections	10.00
Handy Man Inc	Facilities	11.99	Harold's Photo Cente	Public Def	11.89

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Haugaard, Steven G	Mental Ill	212.50	Heirigs, Mary Ellen	Mental Ill	128.00
Help!Line Center Inc	Human Svcs	4,375.00	Helping Hand Assiste	Human Svcs	500.00
Hmn Hardware Inc	Hwy Constr	165.09	Hobby Lobby Stores I	Safe Home	49.65
Homedepot.Com	Pettigrew	185.12	Horizon Agency Inc	Expenses	15,000.00
Howe Heating & Plumb	Facilities	515.00	Hy-Vee Accounts Rece	Var. Depts	463.92
Infrastructure Desig	Hwy Constr	9,805.54	Institutions Service	Facilities	81.27
Intek/Interior Techn	Hwy Admin	350.00	Interstate Office Pr	Var. Depts	5,528.93
Iod Inc	Public Def	35.57	Isi Llc	Courts	160.00
Jack's Sinclair	Facilities	128.39	Jaros, Pete	Mental Ill	105.45
Jaymar Business Form	Dir Of Eq	647.34	Jcl Solutions-Janito	Jail	542.52
Jefferson Partners L	Human Svcs	1,672.00	Jim & Ron's Service	Sheriff	400.00
Johnson Controls, In	Mus Maint	680.57	Kelolandemployment.C	Var. Depts	198.00
Khoroosi, Sam	Courts	1,406.40	Kmart	Human Svcs	87.52
Kmart Pharmacy	Human Svcs	130.94	Knology	Human Svcs	107.42
Kogel Archaeological	Hwy Constr	2,408.35	Kum & Go	Var. Depts	99.40
Lewis Drug Stores	Var. Depts	115.50	Lewno, Lucy	Mental Ill	843.25
Lexjet	Mus Ops	161.99	Light And Siren	Em Mgmt	103.80
Lockwood Law Office	Courts	3,212.20	Lowes #02466	Facilities	15.99
Lutheran Social Svcs	Pass-Thru	5,612.90	Macy*S East #241	JDC	139.96
Mailway Printers	Mus Ops	1,082.00	Malloy Electric Bear	Var. Depts	201.71
Mathison Company	Planning	154.52	Mcdaniel, Kaycee	Extension	90.00
Meijer Inc Q	Var. Depts	10.00	Meile-Rasmussen, Jac	Public Def	38.85
Meineke Car Care 212	Facilities	23.05	Menards - East	Var. Depts	384.48
Menards - West	Var. Depts	126.38	Mettler Implement In	Hwy Constr	149.97
Midamerica Motoplex,	Em Mgmt	4.99	Midamerican Energy C	Hwy Admin	1,511.55
Mikelson, Gary E	Mental Ill	221.65	Miller Funeral Home,	Human Svcs	4,935.00
Mills & Miller Inc	Hwy Constr	6,347.84	Minn Cnty Planning P	Planning	5.99
Minnehaha Community	Parks	25.00	Monick Pipe & Supply	Facilities	10.00
Monroe Systems For B	Treasurer	52.63	Morse Correctl Healt	Jail	2,400.00
Native American Herb	Mus Store	100.14	Natl Alliance To End	Human Svcs	425.00
Neve's Uniforms	Var. Depts	1,451.05	Newegg.Com Inc	Info Tech	281.75
Nicholson, Tschetter	Courts	1,075.53	North American Truck	Hwy Constr	226.28
Northern Truck Equip	Hwy Constr	35.10	Nyberg's Ace Hardwar	Var. Depts	168.35
Office Depot, Inc.	Public Def	376.10	Officemax	Var. Depts	370.48
Ovr	Human Svcs	168.34	Palace Station Htl/C	Sheriff	167.90
Palmer, Barbara	Mental Ill	2,430.00	Paylessshoesou000201	JDC	29.99
Paypal	Var. Depts	964.83	Penning, Al	Mental Ill	39.22
Pfeifer Implement Co	Facilities	215.25	Pheasantland Industr	Dir Of Eq	281.58
Phoenix Supply Llc	JDC	1,948.66	Pollard & Larson Llp	Mental Ill	170.00
Qualified Presort Se	Var. Depts	3,225.58	Quartermaster Unifor	Sheriff	61.14
Quill Corp.	Public Def	0.00	R & L Supply, Ltd	Var. Depts	517.67
Radio Shack Corporat	JDC	21.98	Rdo Equipment Co.	Hwy Constr	2,466.00
Redlin, Jim Db	Hwy Constr	161.04	Rehfluss, Cathy A	Mental Ill	45.00
Reker, Vicki	Public Def	26.05	Retail Data Systems	Treasurer	216.00
Richard-Ewing Equipm	Facilities	14.51	Rochester Armored Ca	Treasurer	379.50
Rural Metro Ambulanc	Coroner	300.00	Sanford Hospital Med	Public Adv	12.25
Save A Load	JDC	165.40	Scheels All Sports	Facilities	99.99
SD Assn Of County We	Hwy Admin	50.00	SD Dept Of Public Sa	Human Svcs	30.00
SD Dept Of Revenue	Var. Depts	345.21	SD Div Of Criminal I	Human Res	43.25
SD Sheriff's Assn.	Sheriff	5,434.04	Sears	Hwy Constr	613.96
SF Family Vision	Human Svcs	10.00	SD Treatment Center	Human Svcs	360.00
Shell Oil 5744115310	Var. Depts	62.53	Shopko Store	Jdc	278.74
Sig Sauer Inc	24/7 Prog	697.00	Simon, Anthony (Or)	Commission	60.00
Sioux Empire Fair As	Fair	12,500.00	Sioux Falls Airport	Sheriff	8.00
Sioux Falls Chamber	Commission	20.00	Sioux Falls City Fin	Donations	343.28
Sioux Falls Rubber S	Var. Depts	10.70	Sioux Falls Utilitie	Var. Depts	7,687.96
Sioux Valley Energy	Var. Depts	140.20	Society For Human Re	Human Res	79.63
Spring Hill Ltd Ptnr	Human Svcs	300.00	Stan Houston Equipme	Facilities	95.00
Staples	Var. Depts	432.40	Strum, Steve A	Human Svcs	400.00
Superamerica	Em Mgmt	73.54	Swanda, Karen	Mental Ill	82.50
Swenby, Dianne	Human Svcs	500.00	T-Rentals Llc	Human Svcs	450.00
Tabbert, Dale	Mus Entpr	1,725.00	Tamarack Materials D	Facilities	146.33
Target Pharmacy	JDC	35.38	Telvent Dtn	Hwy Constr	441.00
Thesenvitz & Mickels	Courts	389.50	Thorin, Deyanira T	Public Def	87.50
Timberland Village A	Human Svcs	500.00	Tires, Tires, Tires	JDC	38.98

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Tires,Tires,Tires In	Sheriff	214.39	Titan Machinery	Hwy Constr	319.81
Toys 'R' Us	JDC	212.85	Tractor Supply Co.	Facilities	25.00
United Air	Var. Depts	150.00	Urban Indian Health	Human Svcs	20.00
Us Bank-Corporate Tr	Bldg Fund	3,000.00	Usd-Dhsf (Dental Hyg	Human Svcs	511.56
Usps.Com Click661006	Var. Depts	252.90	Variety Foods Llc	Safe Home	160.24
Veolia Environmental	Facilities	310.00	Verizon Wireless	Sheriff	37.49
Volunteers Of Americ	Pass-Thru	18,798.13	Wal-Mart Pharmacy	Var. Depts	636.85
Wal-Mart Pharmacy	Var. Depts	290.61	Walcro Floor Coverin	Facilities	26.63
Walgreen Co.	Human Svcs	238.23	Walgreens Pharmacy #	Safe Home	25.42
Waste Management Of	Jail	309.09	Weed And Pest Confer	Hwy Admin	170.00
Weerheim, Tom	Courts	901.40	Western Comfort Apts	Human Svcs	400.00
Western Commercial P	Mus Entpr	622.13	Woodlawn Cemetery As	Human Svcs	1,200.00
Xcel Energy, Inc.	Var. Depts	39,291.87	Younkers #0424	JDC	136.94
1085Argusleadercirc	Public Def	14.29	112 Inc DbA Huey Ap	Human Svcs	235.00

REPORTS

The Minnehaha County Human Services Report and Sheriff’s Department Report for March 2013, and the Auditor’s Account with the County Treasurer as of March 31, 2013 were received and placed on file in the Auditor’s Office.

On Deposit in Banks	
Interest-bearing open accounts	11,551,603.69
CD’s and savings	13,000,000.00
Cash	21,103.44
Checks/drafts in Treasurer’s possession for more than 3 days	5,476.56
Total Cash on Hand	24,578,183.69
Manual payroll ck not updated until April 2013	(26.56)
Total Reconciled AS/400 Cash Balance	24,578,157.13

PERSONNEL

MOTION by Kelly, seconded by Barth, to approve the following personnel changes. 4 ayes.

1. To hire Tyler Mowery as Corrections System Operators (9/1) for the Jail at \$13.841/hour effective 4/15/13.
2. To accept the retirement of Lynn Voss as Maintenance Worker (9/16) for the Juvenile Detention Center effective 4/12/13.
3. To rescind the action from the memo dated 4/2/13 to hire Austin Zahn as Corrections System Operator (9/1) for the Jail.

Step Increases Due:

1. Diane Rypkema – Deputy Director of Equalization – Equalization – 21/9 to 21/10 – 4/3/13 – \$2,501.20/bi-weekly
2. Ralph Hammer – Weed & Pest Supervisor – Highway – 14/8 to 14/9 – 4/5/13 – \$21.588/hour
3. Donald Hanson & Pamela Tiede – Senior Trial Attorneys – State’s Attorney’s Office – 23/15 to 23/16 – 3/19/13 – \$3,534.24/bi-weekly
4. Ramona Helseth – Office Manager – State’s Attorney’s Office – 14/13 to 14/14 – 3/27/13 – \$24.425/hour
5. Beau Blouin – Deputy Public Defender – Public Defender’s Office – 21/1 to 21/2 – 3/21/13 –

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\$2,052.88/bi-weekly

6. Ann Small-McDonald – Safe Home Program Worker – Safe Home – 9/3 to 9/4 – 2/16/13 – \$14.906/hour
7. Michelle Boyd – Chief Deputy Sheriff – Sheriff’s Office – 25/9 to 25/10 – 4/12/13 – \$3,713.12/bi-weekly
8. Jennifer Van Roekel – Deputy Sheriff – Sheriff’s Office – 16/13 to 16/14 – 3/23/13 – \$26.960/hour
9. Christopher Janos – Deputy Sheriff – Sheriff’s Office – 16/4 to 16/5 – 4/13/13 – \$21.588/hour
10. Sidney Dunn – Correctional Officer – Jail – 13/12 to 13/13 – 3/20/13 – \$22.681/hour
11. Derek Lauer – Correctional Officer – Jail – 13/12 to 13/13 – 3/6/13 – \$22.681/hour
12. Clark Baker – Correctional Officer – Jail – 13/3 to 13/4 – 3/1/13 – \$18.161/hour

NOTICE

Notice was received from HDR Engineering that the City of Sioux Falls with the South Dakota Department of Transportation, will begin reconstruction of Russell Street from Westport Avenue to Minnesota Avenue on April 8, 2013.

REPORT

Janet Kittams-Lalley, Executive Director of Help Line Center, Inc., presented the Help Line Center’s 2012 “Community Trends” annual report for the Greater Sioux Falls Area. The Help Line Center saw a slight decrease in the total number of calls in 2012 compared to 2011. Part of that decrease was attributed to more people using their online services as opposed to calling. The three top unmet needs identified were transportation, housing and temporary financial assistance. The Help Line Center recently instituted a new teen crisis texting program. Over 9,740 students have been educated about the program.

PROCLAMATION

Ken McFarland, Commission Administrative Officer, read a proclamation declaring April 14, 2013 through April 20, 2013 as National Public Safety Telecommunications Week. MOTION by Kelly, seconded by Barth, to authorize the Chairman to sign the proclamation. 4 ayes.

RESOLUTION

Commissioner Barth reported that the South Dakota Association of County Commissioners Executive Board has asked for counties to support the efforts of the National Association of Counties to maintain tax exempt status of Municipal Bonds. MOTION by Barth, seconded by Pekas to approve Resolution MC13-17. Commissioner Heiberger joined the meeting. VOTE on motion, 3 ayes, Kelly voted nay. Commissioner Heiberger abstained. Motion carried.

RESOLUTION MC 13-17
Support Efforts to Maintain
Tax-Exempt Status of Municipal Bonds

WHEREAS: the tax-exempt status of municipal bonds is nearly a century old and is vital to funding local infrastructure and economic development; and

WHEREAS: of the \$1.65 trillion of local infrastructure investment over the last decade using tax-exempt bonds,

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nearly all of it was in six categories: \$514 billion for primary and secondary schools; \$288 billion for hospitals; \$258 billion for water and sewer facilities; \$178 billion for roads, highways and streets; \$147 billion for public power projects; and \$106 billion for mass transit; and

WHEREAS: any move to change the current tax treatment of local government bonds would lead to higher borrowing costs for local governments; and

WHEREAS: without tax-exempt financing much-needed infrastructure improvements would likely be delayed; and

WHEREAS: tax-exempt bonds are a critical tool for South Dakota counties to facilitate budgeting and financing of long-term investments in the infrastructure and facilities necessary to meet public demand for government services; and

WHEREAS: without the tax-exemption, the effectiveness of the bond market would be significantly dampened, creating higher borrowing costs for county governments, less investment in infrastructure, and fewer jobs; now

THEREFORE BE IT RESOLVED, that Minnehaha County does hereby support maintaining the current tax-exempt status of municipal bonds.

Dated this 9th day of April, 2013

APPROVED BY THE COMMISSION:
Gerald Beninga, Chairman

ATTEST: Bob Litz, Auditor
Cynthia Jepsen
Deputy County Auditor

SUPPLEMENT

MOTION by Pekas, seconded by Barth, to supplement \$17,028.50 from the Emergency Food & Shelter Program (ESFP) Fund to the ESFP Budget: St. Francis House, Initial Rent, ASN 21125, \$3,750.00; St. Francis House, Shelter/Motel, ASN 21128, \$3,750.00; Southeastern Behavioral Healthcare, Shelter/Motel, ASN 21129, \$7,500.00; and Good Shepherd Center, Food, ASN 21130, \$2,028.50. 5 ayes.

CONTRACT

Ken McFarland, Commission Administrative Officer, gave a briefing on a renewal agreement with Correct Care Solutions to operate the Minnehaha County Detoxification Center. The agreement extends the current contract from January 1, 2013 thru December 31, 2013 and includes the costs associated with staffing an additional 2.7 full time employees. MOTION by Heiberger, seconded by Pekas, to authorize the Chairman to sign the 2013 First Amendment to the Detoxification Facility Operation Agreement Between Correct Care Solutions, LLC and Minnehaha County in the amount of \$847,278. 5 ayes.

AWARD

Kristin Trana, Administrative Coordinator, Minnehaha County Sheriff, reported that the Minnehaha County Sheriff's Office received notification from the South Dakota Attorney General's Office that an award in the amount of \$23,358 has been granted from the State Drug Fund to purchase a vehicle for the narcotics detective that is assigned to the Drug Task Force. MOTION by Kelly, seconded by Barth, to authorize the acceptance of the State Drug Fund Award of \$23,358. 5 ayes. Ms. Trana requested authorization to purchase the vehicle off a contract competitively bid and awarded by the State of South Dakota. MOTION by Barth, seconded by Kelly to

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authorize the purchase of a Dodge Ram 1500 Pickup from Wegner Auto, Pierre, SD from SD State Bid Contract #16417 for a total cost of \$23,358. 5 ayes.

PURCHASE

DJ Buthe, Highway Superintendent, requested authorization to purchase global positioning system (GPS) equipment from Frontier Precision. The purchase will allow the County to complete property, boundary, and topographic surveys in-house without the expense of using engineering consultants. MOTION by Barth, seconded by Heiberger, to authorize the purchase of GPS equipment for a total price of \$52,666.41 with \$33,252 of the items being purchased from the SD State Procurement Contract #16408. 5 ayes.

APPEAL

MOTION by Pekas, seconded by Kelly, to have the 166 pages submitted by the proponents and the 91 pages submitted by the opponents made part of the record. 5 ayes.

Ryan Streff, Planner/Code Enforcement Officer, gave a briefing on appeals filed by Charles Heck, president of the Big Sioux Rifle & Pistol Club and Curt & Kellee Valnes, adjacent property owners of the gun club, of a decision by the Minnehaha County Planning Commission to approve (with conditions) Conditional Use Permit (CUP) #13-012 to allow five (5) short range shooting bays in addition to the three long range shooting bays previously approved in 1981. The property is legally described as N606' W840' N 2/5 SE ¼ Section 24-T102N-R48W, located at 25951 484th Ave, two miles northeast of Brandon, SD. On February 25, 2013 the Planning Commission approved CUP #13-012 with the following 26 conditions:

- 1) That Conditional Use Permit #13-012 shall allow a Rifle & Pistol Range consisting of three (3) long range bays and five (5) short range bays.
- 2) That the property shall adhere to the site plan dated 1-8-13.
- 3) That the range officer(s) on duty shall not be participating in any shooting activities and shall only be there to enforce the safety rules by observing shooters and running the firing line(s) and range(s).
- 4) That a range officer shall be present on each active firing line at all times. That a range officer shall be present with each active shooter whenever the short range pistol bays are used. That one (1) range officer shall not be responsible for both the long range and short range shooting bays at the same time.
- 5) Range officer requirements shall apply to both members and non-members participating in active shooting. A range officer shall always be required.
- 6) That Blue Sky Baffles shall be installed and maintained on all three (3) long range bays.
- 7) That all Blue Sky Baffles shall be completely installed on all three (3) long range bays by January 1, 2015.
- 8) That the 100-yard range shall remain closed until the Blue Sky Baffles are installed.
- 9) That when the baffling system is not applicable or where "blue sky" can be seen (i.e. from the prone position) a bar or similar device shall be placed across the firing bench or firing area in the long range shooting bay(s) to restrict the angle of fire and ensure that bullets remain within the embankments.
- 10) That a baffling system of the short range bays shall be required if projectiles are not contained within the boundaries of the property.
- 11) That 10' foot berms or earth embankments shall enclose all firing lanes or shooting bays at all times.
- 12) That the range shall not be open for more than four days per week and the hours shall be limited to 8 a.m. to sunset with the following exception: the range may be operated one additional day per week for a maximum of six weeks between September 15th and December 1st. No shooting from club members or the public shall be allowed on the other remaining three (3) days.
- 13) That the schedule of operational days shall be provided to the Planning Department annually by March 1st.
- 14) That no shooting shall occur at the facility from dusk till dawn.
- 15) That further safety inspections and/or safety precautions shall be required if the public's health and safety are threatened due to the lack of projectile containment or similar life threatening incidents.
- 16) That all equipment (i.e. towers & lines) in the immediate vicinity owned by the Department of Energy or other similar corporations shall be kept free of projectiles. Hence no shooting of the towers or lines shall

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occur from this property.

- 17) That when the sighting-in of any weapon takes place it shall be conducted in an area that is baffled or that has other measures taken to ensure the projectiles are contained within the boundaries of the property.
- 18) That a gate shall be erected and maintained at all entrances or exists in order to mitigate trespassing and to insure proper access to the facility. That the gates shall be locked when the range is closed.
- 19) That all materials, supplies and products associated with the facility shall be stored within an approved structure, storage facility or screened from public view.
- 20) That adequate restroom facilities shall be provided at the property. When an onsite wastewater system is used it shall be constructed in conformance with South Dakota State and Minnehaha County regulations.
- 21) That any outdoor lighting shall be of a full cutoff and fully shielded design that prevents the spillage of light beyond the boundaries of the subject property.
- 22) That parking and loading regulations outlined in Article 15.00 of the Minnehaha County Zoning Ordinance shall be met.
- 23) That no unlicensed, inoperable or partially dismantled vehicle, equipment or parts shall accumulate on the property.
- 24) That building permits and other required inspections shall be obtained for all structures on the property and violations shall be corrected within 6 months.
- 25) That signage shall comply with the zoning ordinance requirements stated in Article 16.00 On-Premise Signs and Article 17.00 Off-Premise Signs. Signs require a building permit.
- 26) That all previous conditional use permits for this property regarding the Rifle & Pistol Range shall be repealed. These include Conditional Use Permits #81-010, #82-010, #01-095 and #11-019.

The short range bays have been in operation since approximately 2004 and were not included in the plans for the original CUP #81-10 that was approved in 1981. A second CUP #11-019 is also active and was obtained to extend the gun club's hours of operation. Planning Staff believes that the most effective way to move forward with an amendment to a conditional use permit that is currently in violation is to simultaneously repeal all previously issued conditional use permits associated with this use, while creating one (1) new comprehensive permit detailing the entire facility. At that point the entire facility and all safety concerns of the County Commission and Planning Commission related to the three (3) long range bays and the five (5) short range bays can be addressed in order to maintain effective operational procedures at the range.

Jon Haverly, 4605 S. Magnolia Circle, Sioux Falls, SD, spoke on behalf of the Big Sioux Rifle & Pistol Club and stated that CUP #13-012 only pertain to the five (5) short range shooting bays and is not seeking a modification, review, consolidation, change, or review of their other existing CUPs. By applying for CUP #13-012 they are seeking ratification of the verbal approval they say they received from previous Planning Department officials in 2004 for the addition of the 5 short range bays. Mr. Haverly offered Exhibit #14 which they believe recognizes the rule of law for the conditional use process and adequately protects public safety and asked the Commission to consider adoption of that resolution. Mr. Haverly stated they would agree with conditions 7, 8, & 9 placed on CUP #13-012, if they were allowed reasonable time to install the baffles, and object to conditions 13, 15, 16, 21, 24, 25, 26.

Donald Srstka, 2101 W. 41st Street, Suite 2000, Sioux Falls, SD, spoke on South Dakota Statutes 21-10-28 through 21-10-34 that were enacted in 1999 and deal with sport shooting ranges. Mr. Srstka also spoke on an amendment to SD Nuisance Law that was enacted by the South Dakota Legislature this year. Mr. Srstka stated that the amendment did not change Statute 21-10-29 which states "Injunction not available to certain adversely affected property owners. The use or operation of a sport shooting range may not be enjoyed as a nuisance by a person who acquires title to real property adversely affected by the normal operation and use of a sport shooting range which commenced operation prior to the time the person acquired title." Mr. Srstka also spoke on Section 2 of the amendment which states in part "a significant threat to human life or private habitations exists, if shots or ricochets from a sports shooting range not infrequently strike or pass over private property which is frequented by persons or where a private habitation exists". Mr. Srstka stated that only one, maybe two, incidences have occurred in the past 32 years of operation and that certainly is not "infrequently strike". He states other allegations have been made against the club but there is no evidence to support them. Mr. Srstka said the gun

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club is willing to compromise and are willing to baffle the 100 yard range if they are allowed time to get the money to do it. Mr. Srstka asked that the Commission adopts Exhibit #14, the resolution presented by Mr. Haverly.

Kelly Valnes, 48326 260th St. Brandon, SD, spoke complaints filed against the Big Sioux Rifle and Pistol Club regarding their house being shot at twice in June of 2011 and in May of 2012 their son was barely missed by a bullet that was later found by a Deputy Sheriff. Ms. Valnes stated they have written, photographic, and video proof supporting their claims. Ms. Valnes read Section #2 of the Amendment to the SD Nuisance Law that was enacted with an emergency clause making the amendment effective immediately “a significant threat to human life or private habitations exists, if shots or ricochets from a sports shooting range not infrequently strike or pass over private property which is frequented by persons or where a private habitation exists. A significant threat to human life or private habitations continues to exist unless or until shooting protocols are altered and enforced or the shooting range is redesigned so that shots or ricochets no longer strike or pass over private property as described in this section”. Ms. Valnes also spoke in regard to the NRA review of the Big Sioux Rifle and Pistol Club and the NRA Range Design Handbook. Ms. Valnes asked that the Commission over turn the Planning Commission’s decision on the 5 short range bays and to listen to the new law and force the Big Sioux Rifle and Pistol Club to submit in detail and with professional help full plans, safety protocols, areas of projection, and every recommended procedure as outlined in the NRA Range Design Manual for that specific type of range; and to require them to reapply with those requirements fulfilled in order to protect the people in their homes surrounding the Big Sioux Rifle and Pistol Club. They would not object to the gun ranges if they were satisfied with the implemented safety measures. She asked that they uphold the requirement that no blue sky baffles be completely installed on the 100 yard range before allowing it to be used, uphold the need for a certified range officer to be present when any shooting is going on and that they never participate while on duty or leave the range to collect fees or service the club house and that another person be present to do those duties, at least an annual written inspection by the Planning Office be done and placed on file for public inspection along with proof on insurance. Ms. Valnes stated that she is agreeable to condition #21 & #25 being eliminated.

Dr. Scott Ecklund, Representative for District #25, South Dakota House of Representatives, 48217 265th Street, Brandon, SD, spoke on House Bill 1234, an Amendment to SD Nuisance Law. Dr. Ecklund stated that the law was brought forth to the Legislature because there were no significant laws that covered people getting shot at. The intent of the amendment is not to shut any ranges down but to keep people safe.

Charles Heck, President of Big Sioux Rifle & Pistol Club, 1608 S. Glendale, stated the distance of shots fired in the pistol bays vary from 5 yards to 25 yards.

Keith Jones, 25968 483rd Avenue, Brandon, stated he was in a 4-wheeler on his property and was asked to leave by two range officers because they were shooting in bay 1 and that he may get hit by a ricochet. Mr. Jones stated they were shooting in the direction opposite of where he was.

Kersten Kappmeyer, Chief Civil Deputy State’s Attorney gave his legal perspective and recommended denial of CUP #13-012 in its entirety and to send the issue back to the Planning and Zoning Commission on the original permits with the instruction to determine whether the original permits were violated. Mr. Kappmeyer believes that the old ordinance governs this question. The Planning and Zoning Commission can either uphold the original CUP or if they find there is a violation, they can completely revoke it. If it is revoked, they can start over with a new CUP. Mr. Kappmeyer stated that he believes the legal issues are very complex if they adopt another CUP on top of the ones already approved.

Pat Herman, Assisted Planning Director, stated that on the recommendation of Gordy Swanson, Former Chief Civil Deputy State’s Attorney, she called and spoke with Dave Queal the former Planning Director, and he stated for the record that he has no recollection of giving a verbal approval for the construction of the five (5) short range shooting bays.

MOTION by Kelly to approve CUP #13-012 with conditions as submitted by Planning Commission. Motion dies

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for lack of a second.

MOTION by Pekas, seconded by Barth, to approve CUP #13-012 with the exceptions of 7, 8, 9, 13, 15, 16, 21, 24, 25, 26 being eliminated for clarity of the record and also that the 100 yard range stays closed until the baffles are installed and that the other previous conditional use permits are not affected by the approval of the tactical range for clarity of the record and to recognize the new state statute that specifically governs usage and design which does potentially affect the Big Sioux Rifle and Pistol Club depending on how the new statute is going to be applied.

SUBSTITUTE MOTION by Kelly to table the request. Motion dies for lack of a second.

SUBSTITUTE MOTION by Kelly to deny the request and send the issue back to the Planning Commission. Motion dies for lack of a second.

VOTE on original motion, 4 ayes, Kelly voted nay.

LIAISON REPORTS

Commissioner Barth reported that the museum board is considering not accepting anything more into their collections at this time because they have no more room.

NEW BUSINESS

Ken McFarland, Commission Administrative Officer, read a press release from the DOC in regard to the activation of the City of Sioux Falls/Minnehaha County Emergency Operations Center to coordinate efforts to respond to issues related to the winter storm that is currently moving through the area.

Ken McFarland, Commission Administrative Officer, stated that the personnel issue scheduled for Executive Session can be address next week.

MOTION by Heiberger, seconded by Pekas to adjourn. 5 ayes.

The Commission adjourned until 9:00 a.m. on Tuesday, April 16, 2013.

APPROVED BY THE COMMISSION:

Gerald Beninga
Chairman

ATTEST:

Cynthia Jepsen
Deputy Auditor